

**FLATHEAD COUNTY PLANNING AND ZONING
STAFF REPORT #FPAE-12-01
AGENCY EXEMPTION TO LOCAL ZONING
FLATHEAD COUNTY SOLID WASTE DISTRICT
APRIL 16, 2012**

A report to the Flathead County Board of Adjustment regarding a notice from the Flathead County Solid Waste District it intends to construct a solid waste container site on property which will be owned by the District. A public forum for comment on the proposed use has been scheduled before the Flathead County Board of Adjustment on Tuesday May 1, 2012, beginning at 6:00 PM, in the 2nd Floor Conference Room of the Earl Bennett Building, 1035 First Avenue West, Kalispell, Montana. Documents pertaining to this application are available for public inspection at the Flathead County Planning and Zoning Office.

UPDATES:

Land Use Advisory Committee:

The proposed land use is located within the in the Upper Canyon Zoning District of the Canyon Area Land Use Regulatory System (CALURS), and there is no currently established advisory committee for the district.

Board of Adjustment:

This space will contain an update regarding the May 1, 2012 Flathead County Board of Adjustment review of the proposal.

Background Information

Property Owner: Meridian Aggregates Company (current owner)
PO Box 8040
Fort Wayne, In. 46898

Flathead County Solid Waste District (purchase in progress)
4098 Highway 93 North
Kalispell, Mt. 59901

Location and Legal Description:

Pending division and purchase, the subject property will be the northernmost 3 acres of the property currently addressed as 14535 Highway 2 East in the Essex area and legally described as Tract 1 in HES 823 Ex Rd in Section 33, Township 30 North, Range 16 West, P.M.M., Flathead, Montana.

Figure 1: Location of proposal site (highlighted yellow) in Upper Canyon CALURS Zoning District.

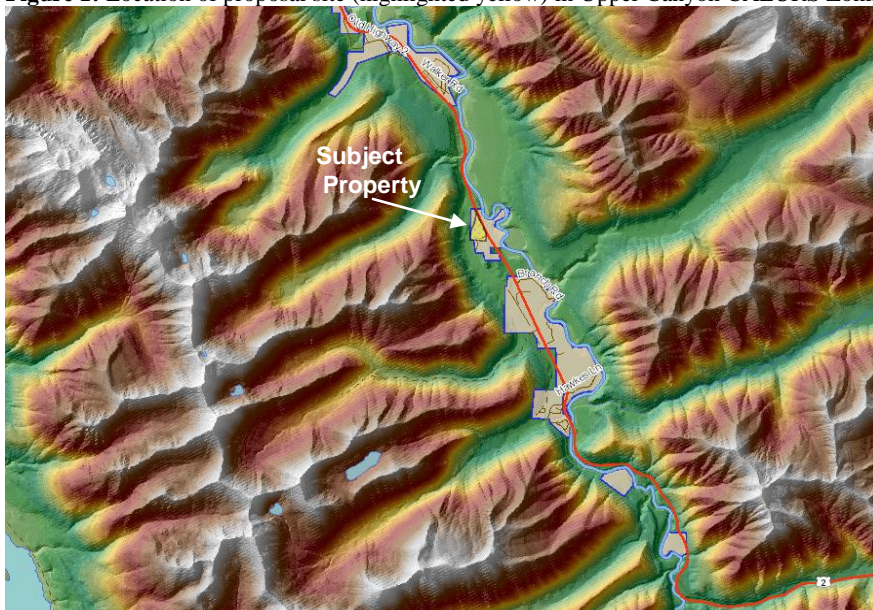
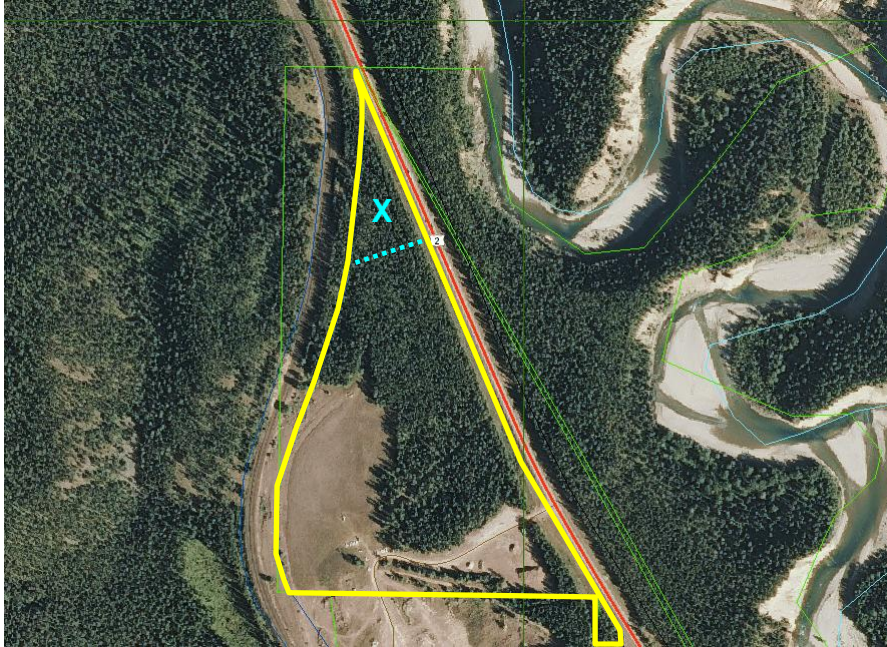


Figure 2: Subject property (highlighted yellow with blue X) with approximate division boundary shown blue .



Summary of Notice:

The Flathead County Public Works Director gave notice to the Board of Adjustment that it intends to construct a solid waste container site on a new 3-acre tract of property to be owned by the Flathead County Solid Waste District and located within the jurisdiction of the Canyon Area Land Use Regulatory System (CALURS). The facility would be a new 'green-box' waste collection site intended to improve waste management efficiency by consolidating three existing waste collection sites in the vicinity to the proposed single location situated in proximity to the population base of the area.

After acquisition of the 3-acre tract by the Flathead County Solid Waste District the property will be public land, and the District would be exempt from compliance with local zoning regulations pursuant to 76-2-402 MCA. The property is currently zoned as Upper Canyon Region of CALURS, and the intended use is contrary to the adopted zoning regulations because 1) the district has a 10-acre minimum lot size for newly created tracts of land, and 2) The intended use is not specifically listed as an exempted use in the Upper Canyon Region. While Section 6.1(B)(1) of CALURS requires a 'Minor Land Use Review' for *public utility structures* in the Upper Canyon Region, the use would be a *public utility facility* without no permanent buildings/structures planned or anticipated, and the Solid Waste District does not intend to go through a 'Minor Land Use Review'.

76-2-402. Local zoning regulations -- application to agencies. Whenever an agency proposes to use public land contrary to local zoning regulations, a public hearing, as defined below, shall be held.

(1) The local board of adjustments, as provided in this chapter, shall hold a hearing within 30 days of the date the agency gives notice to the board of its intent to develop land contrary to local zoning regulations.

(2) The board shall have no power to deny the proposed use but shall act only to allow a public forum for comment on the proposed use.

Adjacent Property Notification:

Legal notification of the District's notice and the public meeting of the Flathead County Board of Adjustment was published in the April 15, 2012 edition of the Daily Interlake, and adjoining property owners within one hundred and fifty (150) feet of the subject property were notified by mail on April 16, 2012.